THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition (S/B) No. 304 of 2004

1. Sadik Rehman, Son of late Sri Ahasan Rehman
   Presently serving as Assistant Administrative Officer
   (Personnel & Administration) Guest House, Tehri Unit of
   Tehri Hydro Development Corporation Limited, Tehri.
   District- Tehri Garhwal.
2. Suresh Kumar Sharma, Son of Sri Sita Ram Sharma,
   Presently serving as Assistant Administrative Officer
   (Personnel and Administration), Guest House, Tehri Unit of Tehri
   Hydro Development Corporation Limited, Tehri.
   District-Tehri Garhwal
3. Sudhir Kumar Painyule, Son of late Sri Nar Hari Dutt
   Painyule, Presently serving as Assistant Administrative Officer
   (Personnel and Administration), Guest House, Tehri Unit of
   Tehri Hydro Development Corporation Limited, Tehri.
   District-Tehri Garhwal
4. Virendra Dutt Bhatt, Son of late Sri H.P. Bhatt, Presently
   Serving as Assistant Administrative Officer (Personnel
   And Administration), Tehri Unit of Tehri Hydro Development
   Corporation Limited, Tehri District-Tehri Garhwal.
5. Virendra Dutt Bhatt S/o late Sri Mohan Lal Bhatt, Presently
   Serving as Assistant Administrative Officer (Personnel
   And Administration), Tehri Uniot of Tehri Hydro
   Development Corporation Limited, Tehri District-Tehri Garhwal.
6. Dharam Prakash S/o late Sri Ram Niwas, Presently serving as
   Assistant Engineer, Tehri Unit of Tehri Hydro Development
   Corporation Limited, Tehri District-Tehri Garhwal.
7. Kapil Kapoor Son of late Sri S.R. Kapoor, Presently serving as
   Assistant Engineer, Tehri Unit of Tehri Hydro Development
   Corporation Limited, Tehri District-Tehri Garhwal

…… Petitioners.

Versus

1. Tehri Hydro Development Corporation Limited
   A-10, Secto-1, Cribhco Bhawan, (4th Floor) Noida,
   U.P. through its Chariman and Managing Director.
2. Director (Personnel) Tehri Hydro Development,
   Corporation Limited, A-10, Sector-1, Cribhco Bhawan
   (4th Floor) Noida, U.P.
3. General Manager (Personnel), Tehri Hydro Development
   Corporation Limited, A-10, Sector-1, Cribhco Bhawan
   (4th Floor) Noida, U.P.
4. Union of India through Secretary, Ministry of Power,
   Government of India, ‘Shram Shakti’ Bhawan,
   Rafi Marg, New Delhi.

… Respondents.

Sri Manoj Tiwari, learned counsrl for the petitioner.
Sri U.K. Uniyal, Senior Adv. assisted by Sri Sobhit Saharia, learned counsel for the respondents-T.H.D.C.

Coram: Hon'ble P.C. Verma, J.
Hon'ble B.S. Verma, J.

Dated July 12, 2006.

Heard Sri Manoj Tiwari, learned counsel appearing on behalf of the petitioners as will as learned Assistant Solicitor General for Union of India and Sri U.K. Uniyal, Senior Advocate assisted by Sri Sobhit Saharia, learned counsel appearing for the respondent-**THDC** and perused the material before us.

By means of this writ petition, the petitioners have prayed for issue a writ of mandamus commanding the respondents to promote the petitioners to E-1 Grade in Executive Cadre w.e.f. the due date, 01.04.2002. The assertion of the petitioners was that they were given S-3 Grade on 1-4-1999 and as per policy of the T.H.D.C., the petitioners were to get automatically S-4 Grade promotion after completing three years service in S-3 grade and nine years total service in the Supervisory Grade and after rendering one year service in S-4 Grade, the petitioners were bound to get automatic promotion to E-1 grade. As such the petitioners could get the promotion E-1 Grade w.e.f. 01-4-2002.

It has not been stated in the writ petition as to what is the length of service required for giving automatic promotion to S-4 Cadre. Petitioners have stated that after serving three years in S-3 Grade, they would have obtained S-4 Grade and after serving as S-4 for one year, they would have got automatic promotion to E-1 Grade as per circular dated 31-10-2003 issued by Senior Manager (Personnel & Administration).

The petitioners instead of waiting for promotion through this channel appeared in the written examination and after

qualifying, their interview was held as scheduled by the D.P.C. for promotion and the petitioner no. 1 Sadiq Rehman was promoted vide letter dated 23-4-2004 issued by the Senior Manager (P & A) (contained as Annexure No. 6 to the writ petition).

Learned counsel for the petitioners submitted that since the D.P.C. was held for the year 2002, therefore, the petitioners opted and appeared in the interview, but the delay in declaring the results has resulted in pecuniary loss to the petitioners, as they would have been promoted through the first channel, thereby after completing three years service as S-3 Grade, they would have been promoted to S-4 Grade and after one year service in S-4 Grade, they were entitled to promotion to E-1 Grade, i.e. from 1-4-2002, as detailed earlier. The only grievance of the petitioners is that they were denied that benefit of promotion policy by which they became entitled to promotion to E-1 Grade after having qualified the prescribed examination with three years qualifying service in S-3 Grade, which was effective from 1-04-2002 as alleged by them.

On the other hand, the T.H.D.C. filed Counter Affidavit and in paragraph 14 thereof, they have stated that the Board of Directors considered the Promotion Policy on 25.6.2001 and decided that for employees in Supervisory Cadre (S-3) the eligibility period for promotion to executive cadre (E-1 grade), the supervisor must complete ten years total service in the supervisory cadre with a minimum of 3 years total service in S-3 grade including the training period and the policy decision was communicated in the organization vide inter office memo. No. THDC/P(1)-348/3039 dated 10-1-2002 and per this policy decision, the petitioners completed ten years total service in supervisory cadre on 31.03.2003 as per eligibility criteria laid down in Promotion Policy and accordingly, they were considered for promotion to E-1 grade only w.e.f. 1.4.2003.

In the counter affidavit filed by the T.H.D.C. it has not been specifically stated that the first procedure for promotion had

come to an end after introduction of the new policy, therefore, in the facts and circumstances of the case, we provide that the petitioner may make a representation for loss of salary, according to them, they have sustained and also with regard to their seniority. If such a representation is made within a period of 10 days from today, the same shall be decided by the respondents within one month by a speaking and reasoned order.

With the aforesaid direction, the writ petition is disposed of finally. No order as to costs.

(B.S. Verma, J.) **(P.C. Verma, J.)**

RCP